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Investigation by the Department of Telecommunications	)	
and Energy on its own motion as to the propriety of the	)	
rates and charges set forth in the following standby rate	)	
tariffs: M.D.T.E. Nos. 136A and 137A, M.D.T.E. Nos.	)	D.T.E. 03-121
237C, 238C, 239C, 254A and 255A; and M.D.T.E.	)	
Nos. 337A and 338A, filed on January 16, 2004, to	)	
become effective February 4, 2004, by Boston Edison	)	
Company, Cambridge Electric Light Company, and	)	
Commonwealth Electric Company d/b/a NSTAR Electric.	)	
	)	

On June 4, 2004, Boston Edison Company, Cambridge Electric Light Company and Commonwealth Electric Light Company (“Companies” or “NSTAR Electric”) submitted to the Department of Telecommunications and Energy (“Department”) by e-mail a proposed Settlement Agreement entered into by the Companies, the Division of Energy Resources (“DOER”), Associated Industries of Massachusetts, Conservation Law Foundation (“CLF”), the Joint Supporters<sup>1</sup> and the Solar Business Association of New England (“SEBANE”) (collectively the “Settling Parties”), together with a joint motion for approval of the Settlement Agreement.<sup>2</sup> The Energy Consortium (“TEC”) reiterates and supports the comments, and arguments therein, we are filing concurrently with the

2 On June 7, 2004, the Hearing Officer waived the Department's procedural requirement that a hard copy of the joint motion and settlement agreement be filed on June 4, 2004.

New England Distributed Generation Coalition (“NEDGC”) opposing approval of the Settlement Agreement. In the alternative, the Energy Consortium urges the Department to make several modifications to the term provisions contained with the Settlement Agreement.

**I. TEC SUPPORTS AND REAFFIRMS THEIR JOINTLY FILED COMMENTS WITH THE NEDGC IN OPPOSITION TO THE JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT**

TEC asserts its opposition to the terms of the Settlement Agreement on the same grounds as articulated in their concurrently filed Comments with the NEDGC in Opposition to the Joint Motion for Approval of Settlement Agreement. Accordingly, we urge the Department to reject the Settlement Agreement as filed.

**II. ALTERNATIVE REQUEST FOR MODIFICATIONS TO THE SETTLEMENT AGREEMENT**

Should the Department choose not to reject the Settlement Agreement, TEC argues alternatively for the Department to consider the following modifications to the Availability clauses and term provisions of the Settlement Rates.

**A. The Exemption From Standby Rates for Public Schools With Binding Financial Commitments To On-Site Generation in Place as of December 31, 2004 Should Be Extended to All Customers With Binding Financial Commitment to On-Site Generation in Place as of December 31, 2004**

Section 2.2(d) of the Settlement Agreement is an exemption from the new standby rates for on-site generation that becomes operational by December 31, 2004 or December 31, 2005 for certain public schools, with binding financial commitments in place as of December 31, 2004. There are many non-public school customers which have made substantial and binding financial commitments to DG facilities that will not be complete

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by December 31, 2004. For reasons discussed in the *Initial Brief of The Energy Consortium and NE DG Coalition* at 62, it is appropriate to allow prudent planning to go forward and avoid a rush to meet an artificial deadline. Therefore, extending the exemption to *all* customers who have binding financial commitment in place as of December 31, 2004 is an appropriate and reasonable way to accommodate customers who made financial decisions and commitments to projects based on the current applicable rates.

**B. The Availability Clauses Should Be Modified to Limit the Applicability of the New Standby Rates to Qualifying Facilities So Long as the New Distributed Generation on NSTAR Electric's Systems is less than 25 MW In Aggregate.**

Section 2.2(e) of the Settlement Agreement details a new provision in the Availability Clauses, which limits the applicability of the new standby rates to on-site generation that does not qualify as “renewable energy technologies” under G.L. c. 40J, §4E(f)(1), except for fuel cells operating primarily on natural gas that are larger than 2,000 kW or if the combined capacity of fuel cells operating primarily on natural gas and that would otherwise be covered by the standby rates installed in the NSTAR Electric Service territories after December 31, 2004, exceeding an aggregate of 10,000 kW. For the reasons discussed in Section II.A of the Initial Brief of the Energy Consortium and NE DG Coalition, it is the position of TEC that *all* Qualifying Facilities (“QFs”) defined in 220 CMR 8.02 should be exempted from proposed rates. In the alternative, however, we urge the Department to add an additional clause to this section which would exempt the applicability of the new standby rates to on-site generation that qualifies as a Qualified Facility pursuant to 220 CMR 8.02 until the aggregate amount of installed generation that is interconnected with NSTAR Electric's system as of the effective date

of the standby rates, reaches 25 MW. TEC would also accept as an alternative a settlement similar to the Settlement Agreement reached with National Grid in DTE 99-47 and entered into by TEC, a copy of which is attached as Exhibit 1. *Massachusetts Electric/Eastern Electric, DTE 99-47 Settlement Agreement* at I(C)(1)(c)(iii).

**C. The Contract Demand Rates for Standby Delivery Service in Congested Areas Should Have an Increased discount of 25-50%**

Section 2.2(g) of the Settlement Agreement proposes reducing contract demand rates for standby delivery by 15 percent for Cambridge and Commonwealth and 20 percent for Boston Edison (June through September) and 10 percent for Boston Edison (October through May). These discounts should be increased to 25% and 50%, respectively, for standby delivery in congested areas. An increased level of discount for distributed generation facilities would reflect the increased beneficial impact that DG can have by reducing load in an already congested area. We note that a discount of 50% would bring the cost of standby service into line with the actual marginal and embedded costs of providing service to all customers under otherwise applicable rate schedules for Boston Edison.

**D. Section 2.2(j) of the Settlement Agreement Should Be Modified to Provide for Customer –Nominated Contractual Terms *And* Rates Under Customer-Requested Negotiated Contractual Terms**

Section 2.2(j) should be modified to read as follows:

(j) A new provision is added that provides, upon a request by a customer, the Companies will negotiate in good faith to establish contractual terms, subject to Department review and approval under G.L. c. 164, §94, that will provide for customer-nominated contract demand levels **and rates** that are different from those that would be established in accordance with the tariff . . .

We urge the Department to add the actual rates that would be paid to the subject

matter to be considered in the negotiation of special contracts. This allows the parties to appropriately adjust for costs and benefits that would result from the installation of a distributed generation system.

### **CONCLUSION**

For the foregoing reasons, and those set forth in the Comments of the Energy Consortium and NE DG Coalition in Opposition to the Joint Motion for Approval of Settlement Agreement, the Department should reject the Settlement Agreement as filed. In the alternative, the Department should (1) exempt all facilities with binding financial commitments by December 31, 2004 from the Availability Clause; (2) Limit the applicability of the new standby rates to gas-fired QFs up to 25 MW aggregate; (3) Increase the reduction of contract demand rates for standby delivery service in congested areas to 25% to 50%; and (4) Allow customer-nominated rates that are different from those that would be established in accordance with the tariff upon customer-requested negotiation with the Company.

**THE ENERGY CONSORTIUM**

By their attorneys,

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